IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CY WAKEMAN, INC., an Iowa corporation, Individually and as Assignee of John Wiley & Sons, Inc. Plaintiff, vs. NICOLE PRICE CONSULTING, LLC d/b/a LIVELY PARADOX, a Missouri limited liability company and NICOLE D. PRICE, Defendants.	)))))))))))	Case No. _______________ **COMPLAINT IN EQUITY AND REQUEST FOR TEMPORARY INJUNCTION**

COMES NOW the Plaintiff, CY WAKEMAN, INC. by and through the undersigned counsel, and for their Complaint in Equity and Request for Temporary Injunction, state as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Cy Wakeman, Inc. is an Iowa corporation registered to do business in the state of Nebraska, with a principal office in Waterloo, Douglas County, Nebraska.

2. Defendant Nicole Price Consulting, LLC is a Missouri limited liability company with a principal place of business in Cape Girardeau, Missouri. It has registered to do business under the name Lively Paradox.

3. Defendant Nicole D. Price is a resident of the State of Missouri.

4. The District Court has original jurisdiction over this action, as it arises under the copyright laws of the United States. 28 U.S.C. §§ 1331, 1338 (2016).

5. The District Court has *in personam* jurisdiction over the Defendants, as all matters alleged and contained herein arise from Defendant Price's past residence in Nebraska and employment with Plaintiffs.

6. Venue is proper where personal jurisdiction is likewise proper. *Foreign Candy Co., Inc. v. Tropical Paradise, Inc.*, 950 F. Supp. 2d 1017, 1037-38 (N.D. Iowa 2013).

FACTS

7. Cy Wakeman, Inc. provides leadership consulting and training to a number of different businesses and organizations, through speaking engagements, live and online training, and books written by its president, Cy Wakeman.

8. Cy Wakeman, as president of Cy Wakeman, Inc., has published two books: *The Reality-Based Rules of the Workplace* and *Reality-Based Leadership*, both of which are protected by copyrights registered by John Wiley & Sons, Inc.

9. From October 2012 through August 2016, Defendant Nicole Price was an employee of Cy Wakeman, Inc.

10. In her position as an employee of Cy Wakeman, Inc., Price was tasked with creating a speaking and training platform emphasizing and discussing diversity in the workplace. The program was to be built on previous Cy Wakeman, Inc. presentations, training platforms, and publications and focused on "Reality-Based Diversity and Inclusion" in the workplace.

11. The diversity program incorporated a number of materials and writings included in material previously copyrighted.

12. The script of Price's presentation on diversity was put into a Microsoft PowerPoint slide show at Cy Wakeman, Inc.'s expense for use by Price as a keynote speaker, as part of her duties as an employee of Cy Wakeman, Inc.

13. The slides from that Microsoft PowerPoint presentation were designated as copyrighted by Cy Wakeman, Inc. under the title *Reality-Based Diversity & Inclusion* and are subject to a registered copyright held by Cy Wakeman, Inc.

14. In 2014-15, Cy Wakeman, Inc. created a virtual training product built on, among other things, Price's diversity presentation.

15. The virtual training product, and all content included in it, was designated as copyrighted by Cy Wakeman, Inc. and is subject to copyright protection.

16. In 2015, Cy Wakeman sold a book proposal to St. Marten's Press. Her proposal included, among other things, material based on Price's work as an employee of Cy Wakeman, Inc.

17. Wakeman's book proposal has received pre-registration for copyright protection.

18. In August 2016, Nicole Price was terminated by Cy Wakeman, Inc.

19. At the time of her termination, Nicole Price was found to be starting a competing company while employed by Cy Wakeman, Inc. and utilizing Cy Wakeman, Inc.'s copyrighted materials to write a book to be sold in her new venture based on the program she had created while employed by, and for the use of, Cy Wakeman, Inc.

20. Writing a book based on the program she had created while employed by, and for the use of, Cy Wakeman, Inc.

21. On or about October 11, 2016, Nicole Price self-published *Lively Paradox: An Authentic Perspective on Diversity & Inclusion*.

22. On or about November 15, 2016, Nicole Price contributed to *Cultivating Culture*, published by Red Letter Publishing.

23. Nicole Price's book, *Lively Paradox*, uses and includes materials owned by, and subject to the copyright of, Cy Wakeman, Inc.

a. On page 81 of *Lively Paradox*, Price writes that "judgment is the number one thing that hinders innovation. Innovation is your natural state when you aren't judging." This concept, original to Cy Wakeman and non-traditional in the field of leadership, is included in *Reality-Based Rules of the Workplace* at page 100, and in Cy Wakeman, Inc.'s presentations from 2011 and 2013.

b. On page 82 of *Lively Paradox*, Price writes about a conference she allegedly attended in 2011. The story is taken from *Reality-Based Rules of the Workplace*, pp. 119-121.

c. On page 113 of *Lively Paradox,* Price writes "wholeheartedness is the antidote to fatigue." There is an entire section of *Reality-Based Rules of the Workplace* entitled "Wholeheartedness: The Antidote of Fatigue" at page 134.

d. On pages 110-11 and page 128 of *Lively Paradox*, Price writes of success despite circumstances. These concepts have been one of the bases of Cy Wakeman, Inc.'s training since 2005 and included in *Reality-Based Rules of the Workplace* at page 12 and pages 149-163.

e. On pages 50 and 114 of *Lively Paradox*, Price writes "the enemy of accountability is learned helplessness." This concept is an entire section of *Reality-Based Rules of the Workplace* at page 82, and is included in the copyrighted *Reality-Based Diversity & Inclusion* presentation.

f. Page 116 of *Lively Paradox*, regarding happiness and correctness, is taken from page 102 of *Reality-Based Rules of the Workplace.*

g. On page 119 of *Lively Paradox*, Price uses the term "emotionally expensive." This is used repeatedly in *Reality-Based Rules of the Workplace.*

h. Figures 1, 2 and 3 in *Lively Paradox* are taken from the *Reality-Based Diversity & Inclusion* presentation PowerPoint. Figure 1 is an exact duplicate of a slide from that presentation.

i. Further, major concepts of *Lively Paradox*, such as "acknowledging what is," "confirmation bias," "keeping criticism to a minimum when you are in power," "effectiveness drain," "responsibility to 'remove lids'," "you can be honest and kind," "diversity shouldn't hurt," and "if you are unorthodox you must also be exceptional" – all written in boldface type in *Lively Paradox* – are taken directly from the *Reality-Based Diversity & Inclusion* PowerPoint presentation.

j. A great deal of *Lively Paradox* is taken directly from the script prepared for and filmed in the "Realiy-Based Inclusion" Virtual Training product; much of the first half of the book is copied verbatim from that script.

24. Nicole Price's contributed chapter in the book *Cultivating Culture* uses and includes materials owned by, and subject to the copyright of, Cy Wakeman, Inc.

a. Concepts included in Price's contributed chapter are directly taken from *Reality-Based Leadership*.

b. Concepts included in Price's contributed chapter are directly taken from the presentation *Reality-Based Diversity & Inclusion* created and copyrighted by Cy Wakeman, Inc.

25. Nicole Price began preparations for both Nicole Price Consulting, LLC and the book *Lively Paradox* while still employed by Cy Wakeman, Inc.

26. On both the Nicole Price Consulting website and her personal LinkedIn page, Price claims to be a certified "Reality-Based Leadership facilitator"

27. The "Reality-Based Leadership facilitator" certification is only given by Cy Wakeman, Inc.

28. At no point has Cy Wakeman, Inc. certified Nicole Price as a "Reality-Based Leadership facilitator."

29. On her LinkedIn page, Price lists her experience with Cy Wakeman, Inc. clients as her own, in violation of non-disclosure agreements between such clients and Cy Wakeman, Inc.

FIRST CAUSE OF ACTION – COPYRIGHT INFRINGEMENT – ALL DEFENDANTS

30. Plaintiff repeats and realleges paragraphs 1 through 28.

31. Plaintiff owned a valid copyright over the aforementioned books, written works, electronic media and materials it created.

32. Defendants have access to Plaintiff's copyrighted works.

33. Defendants have copied original elements of the works subject to such copyrights, and/or there is substantial similarity between the works.

34. As a result of Defendants' infringement on Plaintiff's valid copyrights, Plaintiff has sustained damages.

WHEREFORE Plaintiff Cy Wakeman, Inc. respectfully requests this Court enter judgment in its favor and against Defendants, jointly and severally, in an amount equal to the damages suffered as a result of Defendants' actions. Plaintiff further requests the Court assess all costs, fees, and other remedies against Defendants as it deems just and proper.

SECOND CAUSE OF ACTION – MISAPPROPRIATION OF TRADE SECRETS (NEB. REV. STAT. §§ 87-501 et. seq.) – NICOLE D. PRICE

35. Plaintiff repeats and realleges paragraphs 1 through 33.

36. As an employee of Cy Wakeman, Inc., Nicole D. Price was given access to Plaintiff's trade secrets, particularly its customer lists.

37. Due to the nature of Cy Wakeman, Inc.'s business, the confidentiality of customers is valuable and important.

38. Plaintiff has the right, by ownership of its customer list and agreement with certain clients, to the use of its confidential client list.

39. The identities of Plaintiff's clients were communicated to Defendant Price while she was employed in a position of trust and confidence and under circumstances making it inequitable and unjust for her to disclose the list to others and/or use it to the prejudice of Plaintiff.

40. Defendant Price has published Plaintiff's trade secret on her personal web site and LinkedIn profile.

41. As a result of Defendant Price's actions, Plaintiff has suffered damages.

WHEREFORE Plaintiff Cy Wakeman, Inc. respectfully requests this Court enter judgment in its favor and against Defendant Nicole D. Price, in an amount equal to the damages suffered as a result of Defendant's actions. Plaintiff further requests the Court assess all costs, fees, and other remedies against Defendants as it deems just and proper.

THIRD CAUSE OF ACTION – BREACH OF DUTY OF LOYALTY – NICOLE D. PRICE

42. Plaintiff repeats and realleges paragraphs 1 through 40.

43. Price, as an agent of Plaintiff, was subject to a duty to Plaintiff to act solely for the benefit of Plaintiff in all manners associated with her agency.

44. Price breached her duty of loyalty by acting in competition to Plaintiff while employed as an agent.

45. Price further breached her duty of loyalty by taking unfair advantage of her position to use information or items acquired by her as an agent to compete with Plaintiff.

46. As a result of Price's actions, Plaintiff has suffered damages.

WHEREFORE Plaintiff Cy Wakeman, Inc. respectfully requests this Court enter judgment in its favor and against Defendant Nicole D. Price, in an amount equal to the damages suffered as a result of Defendant's actions. Plaintiff further requests the Court assess all costs, fees, and other remedies against Defendants as it deems just and proper.

FOURTH CAUSE OF ACTION – INTERFERENCE WITH BUSINESS RELATIONS – NICOLE D. PRICE

47. Plaintiff repeats and realleges paragraphs 1 through 45.

48. Plaintiff had ongoing business relations with numerous business organizations.

49. The existence and nature of Plaintiff's relationship with such organizations is subject to non-disclosure agreements entered at the request of those organizations.

50. Defendant Price, in her former capacity as an agent of Plaintiff, knew of the existence and nature of such business relationships.

51. Price has unjustifiably and intentionally violated those non-disclosure agreements by promoting such organizations as her own past clients.

52. Price's actions have interfered with and irreparably harmed Plaintiff's relationships with its clients.

53. As a result, Plaintiff has sustained damages.

WHEREFORE Plaintiff Cy Wakeman, Inc. respectfully requests this Court enter judgment in its favor and against Defendant Nicole D. Price, in an amount equal to the damages suffered as a result of Defendant's actions. Plaintiff further requests the Court assess all costs, fees, and other remedies against Defendants as it deems just and proper.

REQUEST FOR TEMPORARY AND PERMANENT INJUNCTION

54. Plaintiff repeats and realleges paragraphs 1 through 52.

55. Plaintiff is, and will continue to be, irreparably harmed by Defendants' repeated, continuous, intentional infringement on its copyrights, use of its trade secrets, and interference with its business relationships.

56. The harm caused by these continuous infringements to Plaintiff is greater than any harm that injunctive relief prohibiting such acts would put upon Defendants.

57. Plaintiff is likely to prevail on all counts of its Complaint.

58. The public interest in protecting copyrighted material, trade secrets, and business relationships from outside infringement and interference further demands injunctive relief.

WHEREFORE Plaintiff Cy Wakeman, Inc. respectfully requests that this Court enter temporary injunctive relief demanding Defendants (1) cease all sales and distribution of any books, electronic books, presentation materials, documents, or other materials including or relying upon materials protected by copyrights, including but not limited to *Lively Paradox* and *Cultivating Culture*; (2) remove all references to Reality-Based Leadership certification from their materials, resume, curriculum vitae, social media profiles, and website; (3) remove all references to current or past Cy Wakeman, Inc. clients from their materials, resume, curriculum vitae, social media profiles, and website; and (4) cease all other uses of any materials protected by copyrights registered, preregistered, or owned by, or assigned to, Cy Wakeman, Inc.

DATED this 9th day of December, 2016.

CY WAKEMAN, INC., an Iowa corporation
Plaintiff,

By: */s/ Pamela J. Bourne*__________________

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